



Senate

General Assembly

File No. 548

February Session, 2016

Substitute Senate Bill No. 246

Senate, April 7, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE ZERO-TOLERANCE SAFE SCHOOL ENVIRONMENT ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-61aa of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) A person is guilty of threatening in the first degree when such
4 person (1) (A) threatens to commit any crime involving the use of a
5 hazardous substance with the intent to terrorize another person, to
6 cause evacuation of a building, place of assembly or facility of public
7 transportation or otherwise to cause serious public inconvenience, or
8 (B) threatens to commit such crime in reckless disregard of the risk of
9 causing such terror, evacuation or inconvenience; (2) (A) threatens to
10 commit any crime of violence with the intent to cause evacuation of a
11 building, place of assembly or facility of public transportation or
12 otherwise to cause serious public inconvenience, or (B) threatens to
13 commit such crime in reckless disregard of the risk of causing such
14 evacuation or inconvenience; [or] (3) commits threatening in the

15 second degree as provided in section 53a-62, as amended by this act,
16 and in the commission of such offense [he] such person uses or is
17 armed with and threatens the use of or displays or represents by [his]
18 such person's words or conduct that [he] such person possesses a
19 pistol, revolver, shotgun, rifle, machine gun or other firearm; or (4)
20 violates subdivision (1) or (2) of this subsection with the intent to cause
21 an evacuation of a building or the grounds of a public or nonpublic
22 preschool, school or institution of higher education during preschool,
23 school or instructional hours or when a building or the grounds of
24 such preschool, school or institution are being used for preschool,
25 school or institution-sponsored activities. No person shall be found
26 guilty of threatening in the first degree under subdivision (3) of this
27 subsection and threatening in the second degree upon the same
28 transaction but such person may be charged and prosecuted for both
29 such offenses upon the same information.

30 (b) For the purposes of this section, "hazardous substance" means
31 any physical, chemical, biological or radiological substance or matter
32 which, because of its quantity, concentration or physical, chemical or
33 infectious characteristics, may cause or significantly contribute to an
34 increase in mortality or an increase in serious irreversible or
35 incapacitating reversible illness, or pose a substantial present or
36 potential hazard to human health.

37 (c) Threatening in the first degree is a class D felony, except that a
38 violation of subdivision (4) of subsection (a) of this section is a class C
39 felony.

40 Sec. 2. Section 53a-62 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective October 1, 2016*):

42 (a) A person is guilty of threatening in the second degree when: (1)
43 By physical threat, such person intentionally places or attempts to
44 place another person in fear of imminent serious physical injury, (2)
45 (A) such person threatens to commit any crime of violence with the
46 intent to terrorize another person, or [(3)] (B) such person threatens to
47 commit such crime of violence in reckless disregard of the risk of

48 causing such terror, or (3) violates subdivision (1) or (2) of this
49 subsection and the person threatened is in a building or on the
50 grounds of a public or nonpublic preschool, school or institution of
51 higher education during preschool, school or instructional hours or
52 when a building or the grounds of such preschool, school or institution
53 are being used for preschool, school or institution-sponsored activities.

54 (b) Threatening in the second degree is a class A misdemeanor,
55 except that a violation of subdivision (3) of subsection (a) of this
56 section is a class D felony.

57 Sec. 3. (NEW) (*Effective October 1, 2016*) The Board of Pardons and
58 Paroles shall grant an absolute pardon to any person who applies for
59 such pardon with respect to a conviction of a violation of subdivision
60 (4) of subsection (a) of section 53a-61aa of the general statutes, as
61 amended by this act, or subdivision (3) of subsection (a) of section 53a-
62 62 of the general statutes, as amended by this act, if (1) such person
63 committed such offense prior to attaining the age of eighteen years, (2)
64 at least three years have elapsed from the date of such conviction or
65 such person's discharge from the supervision of the court or the care of
66 any institution or agency to which such person has been committed by
67 the court, whichever is later, (3) such person has no subsequent
68 juvenile proceeding or adult criminal proceeding that is pending, (4)
69 such person has attained the age of eighteen years, and (5) such person
70 has not been convicted as an adult of a felony or misdemeanor during
71 the three-year period specified in subdivision (2) of this section.

72 Sec. 4. (NEW) (*Effective October 1, 2016*) Any individual who reports
73 an act of threatening described in subdivision (4) of subsection (a) of
74 section 53a-61aa of the general statutes, as amended by this act, shall
75 have an absolute defense to any civil action brought as a result of
76 having made such report, provided such individual exercised due care
77 when making such report and at all times acted in good faith while
78 making such report.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016</i>	53a-61aa
Sec. 2	<i>October 1, 2016</i>	53a-62
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill, which increases the penalty for certain cases of threatening, results in a potential revenue gain from criminal fines and a potential cost for increased sentences. In FY 15 there were 11 charges with a total revenue gain of \$2,640. Currently there are 35 inmates incarcerated for the charges specified.

To the extent that offenders are adults and are prosecuted for new or expanded offenses under this bill, potential costs for incarceration or probation supervision in the community would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender. To the extent that offenders are minors and are prosecuted for new or expanded offenses under this bill, potential costs for incarceration or probation supervision in the community would result. On average, it costs the state approximately \$8,000 (including benefits) for juvenile probation as opposed to \$109,865 (including benefits) to incarcerate a juvenile.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 246*****AN ACT CONCERNING THE ZERO-TOLERANCE SAFE SCHOOL ENVIRONMENT ACT.*****SUMMARY:**

This bill increases the penalty for 1st degree threatening intended to cause a school evacuation (i.e., a preschool, K-12 school, or higher education institution). It increases the penalty from a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both, to a class C felony, punishable by imprisonment for one to 10 years, a fine of up to \$10,000, or both.

It also increases the penalty for 2nd degree threatening when the victim is on school grounds from a class A misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$2,000, or both, to a class D felony.

The bill establishes conditions under which the Board of Pardons and Paroles must grant an absolute pardon to an adult who committed one of these crimes when a minor.

Finally, the bill gives someone who reports 1st degree threatening intended to cause a school evacuation an absolute defense to a civil action brought as a result of making the report, if the person (1) exercised due care when making the report and (2) acted in good faith at all times while making the report.

EFFECTIVE DATE: October 1, 2016

THREATENING CRIMES***Penalties for School-Related Threats***

By law, 1st degree threatening includes threats to commit a violent

crime, or a crime using a hazardous substance, with intent to cause, or with reckless disregard of the risk of causing, (1) evacuation of a building, place of assembly, or public transportation facility, (2) serious public inconvenience, or (3) for hazardous substance crimes, terror in a person.

The bill increases the penalty for such 1st degree threatening, from a class D felony to a class C felony, if the threat was made with intent to cause the evacuation of a building or the grounds of a public or private preschool, school, or higher education institution during instructional hours or when the facility or the grounds are being used for school- or institution-sponsored activities.

By law, a person is guilty of 2nd degree threatening when he or she (1) by physical threat, intentionally places or attempts to cause someone to fear imminent serious physical injury or (2) threatens to commit a violent crime with intent to terrorize someone or in reckless disregard of the risk of doing so.

The bill increases the penalty for this crime, from a class A misdemeanor to a class D felony, if the threatened person was in the building or on the grounds of such a school facility during instructional hours or when the facility or the grounds is being used for school- or institution-sponsored activities.

Absolute Pardon

Under the bill, the Board of Pardons and Paroles must grant an absolute pardon to an adult applicant who was convicted of 1st or 2nd degree threatening related to a preschool, school, or higher education institution as described above, if:

1. the person was under age 18 when he or she committed the offense;
2. at least three years have passed since the person's conviction or discharge from court supervision or the care of an institution or agency to which he or she was committed, whichever is later;

3. during that three-year period, the person has not been convicted as an adult of any crime; and
4. the person has no subsequent pending juvenile proceeding or adult criminal proceeding.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 2 (03/21/2016)